

Notice of Allowability	Application No.	Applicant(s)	
	10/791,097	ROOP ET AL.	
	Examiner	Art Unit	
	Bradford C Pantuck	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment 2/20/2005.
2. ☒ The allowed claim(s) is/are 1-12.
3. ☒ The drawings filed on 03/02/2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>04-16-2004</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Election/Restrictions

1. Claims 13-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on February 10, 2005.
2. This application is in condition for allowance except for the presence of claims 13-18 directed to an invention non-elected without traverse. Accordingly, claims 13-18 have been cancelled.

Allowable Subject Matter

3. Claims 1-12 are allowed.
4. The following is an examiner's statement of reasons for allowance:

None of the prior art of record, alone or in combination, discloses a sheath including a plurality of lobes, with a guiding device in one of the lobes, an expandable needle in another one of the lobes, and a hooking device in another one of the lobes, wherein the hooking device is configured to hook the needle, as set forth by the applicant.

Although U.S. Patent No. 5,607,435 to Sachdeva et al. discloses a super elastic needle (44) that *bends* or *curves* [see Fig. 4; Column 8 line 66 to Column 9 line 8], the needle cannot be considered to be "expandable", as set forth by the applicant because it does not "open up...open out...increase in extent, number, volume or scope" as "to expand" is defined in the Merriam Webster Dictionary.

Regarding U.S. Patent No. 5,423,830 to Schneebaum et al, member (78) is a “web member” for applying suction [column 4 line 67 to column 5 line 7] and cannot be considered a needle, as set forth by the applicant.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,607,435 to Sachdeva et al.

U.S. Patent No. 5,423,830 to Schneebaum et al.

U.S. Patent No. 5,025,778 to Silverstein et al.

U.S. Patent No. 5,984,932 to Yoon

U.S. Patent No. 5,217,001 to Nakao et al.

U.S. Patent No. 5,507,757 to Sauer et al.

U.S. Patent No. 5,817,013 to Ginn et al.

U.S. Patent No. 6,352,503 to Matsui et al.

U.S. Patent No. 6,761,685 to Adams et al.

Publication No. 2004/0059352 to Burbank et al.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradford C Pantuck whose telephone number is (571) 272-4701. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BCP
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March 9, 2005

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ANH TUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
3/17/05